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THE
BRITISH NORTH AMERICAN FISHERIES.
REPORT OF THE
MANCHESTER FOREIGN AFFAIRS ASSOCIATION.

THE varied interests of England afford scope for the action of any power that may aim at her destruction, and this fact is sufficient to impose upon her people the necessity of watchfulness. If, then, instead of watchfulness, we have indifference, it cannot be surprising that the interests of England should be invariably giving way before the opposing interests of another power. If we compare the position of England now with the position she occupied a few years ago, the difference will be seen and felt by all. It will also be seen that this change has not been the result of accident—that there has existed a design to bring it about, and that in carrying it out some amongst those who have wielded the destinies of this empire must have taken part. We cannot suppose that this design could have existed, and the plans been arranged for carrying it into execution, and no one among the statesmen of England have seen this danger. On the contrary, we have seen this scheme exposed, and the danger pointed out, and yet instead of action, whereby we could check these designs, our every act has been of a character to serve the enemy, and assist in the scheme.

To secure the ruin of this country no step more certain could be taken than that of denuding her of her strength, thus producing insecurity and destroying confidence, and afterwards raising against her, not only the enmity of foreign nations, but that of her own subjects in various parts of the world. At the present moment, we find the subjects of England in the East in rebellion, and in speaking of this one of the present Ministry has said, “What has occurred in India has been produced by *those who had the Government of India.*” If insurrection, to quell which drains the resources of the Empire, can thus be produced, it is imperative upon us to be watchful that the West does not share the same fate, and to the study of our position in that quarter we are called even now by the appearance of danger. Murmurs of discontent have already reached us from across the Atlantic. Words the meaning of which cannot be mistaken have been uttered, not

by demagogues anxious for change, but by the Government and the House of Assembly speaking for the people of Newfoundland, speaking also the feelings of the men generally of North America. Having examined the causes of complaint, and collected evidence bearing upon the subject, we have been enabled to arrive at conclusions which we submit for the consideration of those who are anxious to maintain the honour and integrity of their country, and who see that this can only be done by a reversal of those acts by which these are endangered.

1. That the British Minister, by the treaty signed at London, January 14th, 1857, has *wilfully* sacrificed the rights of the subjects of Britain in North America by giving to French subjects exclusively a large portion of the coast of Newfoundland, and a concurrent right on the coast of Labrador, upon which to take fish, &c.

2. That the Treaty of January 14th, 1857, is also an infringement of the privileges guaranteed by Treaty to the subjects of the United States.

3. That the fisheries of North America have long been considered important in both a commercial and political point of view, and that, to give to other powers rights even equal with our own subjects, is to weaken our own power, and to advance the interests of a foreign state at the expense of our own.

4. That the French have always looked to these fisheries as a means of supplying their navy with hardy seamen, and to extend their privileges there is to strengthen the forces of a foreign power which may be used to coerce England in the future.

5. That the Treaty stipulates in Art. 20 that it shall come into operation as soon as the laws required to carry it into effect shall have been passed by the Imperial Parliament and the Legislature of Newfoundland; that the latter having refused their consent to this measure should render it null and void; but that, the French Emperor having promulgated the Treaty in a decree in the *Moniteur*, the French fishermen are preparing to enforce the powers given them, thus rendering inoperative the action of the Legislature of Newfoundland, and bringing into contempt their authority.

6. That this action on the part of France is calculated to endanger the peace between the two countries.

7. That the general effect of this Treaty will be to ruin a great portion of our fellow subjects in North America, thereby engendering distrust and disaffection, thus tending to the dismemberment of the Empire, and to foster and increase the ill-feeling that already exists against us in the United States. To England it is the consummation of that treason commenced by the declaration signed by the plenipotentiaries at the Paris Conferences in 1856, which, by abrogating our maritime law, renders our navy useless in time of war, the action of this treaty being such as to prevent

our resuming those rights and that naval supremacy which, to use the words of De Witt, was made formidable mainly through the discovery of the inexpressibly rich fishing-bank of Newfoundland.

In support of the first position we may quote Vattel:—"The banks of the sea belong incontestably to the nation that possesses the country of which it forms a part." (Book 1, Sec. 290.) It is therefore clear that the fishing-banks of North America belong exclusively to the inhabitants of those colonies, and (without considering the advantages that accrue to England, and which may be used as a reason for maintaining those rights, and refusing to other nations the privilege of fishing on those banks,) no nation can by law set up a right to partake of the products of the waters on that coast. How, then, could rights such as are named in the following article of the treaty of 1857 have been given away by any English Minister?

"ART. 1. French subjects shall have the *exclusive right* to fish and to use the strand for fishery purposes," "on the east coast of Newfoundland, from Cape St. John to the Quirpon Islands. They shall have the *right* to fish and to use the strand for fishery purposes, *to the exclusion of British subjects*, on the North Coast of Newfoundland from the Quirpon Islands to Cape Norman and on the west coast in and upon the five fishing harbours," (named) "such exclusive fishing to extend to a distance of three marine miles due north from a straight line joining Cape Norman and Cape Bauld, and as regards the five fishing harbours shall extend to within a radius of three marine miles in all directions from the centre of each harbour."

This Treaty professes to have for its object the settlement of disputes as to the right of the French (*exclusively*,) to certain portions of the coast of Newfoundland. The French set up a claim in which the colonists refused to acknowledge, but which, when referred to the Imperial Government by those who understood the value and importance of the points disputed, has been ceded, those to whom the colonists looked for protection having sanctioned the encroachment of their foes, yielding to another state the means of existence of a large portion of the subjects of their own. That the English Minister wilfully sacrificed these rights is evident from the fact that in his despatch of the 16th of January, 1857, he endeavours to prove from previous treaties that the French did possess *exclusive rights* on certain portions of the coast. Referring to previous Treaties, we have been unable to substantiate this statement; on the contrary we find that the word *exclusive* is not once mentioned, nor can such a construction be put on any article of those treaties. By the Treaty with France of 1814, the right of fishing by French subjects on the Great Bank of Newfoundland, on the coast of the same, on the adjacent islands, and in the Gulf of St. Lawrence is replaced on the footing it held in 1792. To understand that position we must go back to the Treaty of 1783, the fifth article of which concludes as follows: "French fishermen will enjoy the fishery which is assigned to them

by the present article as they have been entitled to enjoy that which is assigned to them by the treaty of Utrecht." By the Treaty of 1762, the *liberty* of fishing in the Gulf of St. Lawrence is given to French fishermen *on condition* of their exercising the same at the *distance of three leagues* from the shore, and the Treaty of Utrecht is renewed and confirmed as to the liberty on the coast of Newfoundland. Article 13 of the Treaty of Utrecht, signed in 1713, thus concludes:—

"Nor shall the most Christian King his heirs and successors or any of their subjects at any time hereafter lay claim to the said island (Newfoundland) and islands, or to any part of it or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said island of Newfoundland or to erect any buildings there besides stages made of boards and huts necessary and usual for drying of fish, or to resort to the said island beyond the time necessary for fishing and drying of fish. But it shall be *allowed* to the subjects of France to catch fish and to dry them on land in that part only of the said island of Newfoundland which stretches from Cape Bonavista to the Northern point of the said island, and from thence running down by the western side reaches as far as the place called Point Niche."

This Treaty of Utrecht appears to be that by which the liberty was first granted to French fishermen, and it will also be seen that in subsequent Treaties very little change has been made up to the Treaty of 1857; and any reader of the article quoted will see that it gives no exclusive right. The success which has invariably attended the arms of England in her wars with France has given this country a control in those waters that has always enabled her to defend the rights of the colonists, and it has been left to the statesmen of this day to sacrifice those rights, which sacrifice the Minister has endeavoured to justify by the false statement that the French had previously exclusive rights by treaty to some portions of the coast of Newfoundland. But there is further evidence that the act of the British Minister was not one of the consequences of which he was ignorant. The Attorney-General in the House of Assembly (Newfoundland) speaking of this Treaty of 1857 on February 6th of that year said, "This Treaty struck the colony with no less astonishment than it took the local legislature by surprise. In 1853 he and his colleagues had brought the subject of the *French aggression*, and of the danger of further concession, under the notice of the Imperial Government, and *the points objected to then were the very points they compromised and conceded by this Treaty.*"

The examination of the various Treaties fails to establish the position assumed by the Minister as to the rights of the French on the coast of Newfoundland. Upon these there may have been dispute; but there could be no dispute with respect to the Labrador fishery. There they had *no claim*. By Treaty they were forbidden to fish on that coast. The 5th Article of the Treaty of 1763 is very distinct upon this point:—"And His Britannic

Majesty consents to *leave* to the subjects of the Most Christian King the *liberty* of fishing in the Gulf of St. Lawrence, *on condition* that the subjects of France only exercise the same *at the distance of three leagues from all the shores belonging to Great Britain*, whether those of the continent or those of the islands in the said Gulf of St. Lawrence." The Gulf is bounded on the north by Labrador. The third article of the treaty of 1857 states that "French subjects shall have the *right*, concurrently with British subjects, to fish on the coast of Labrador," "and of North Belleisle, together with the liberty to dry and cure fish on any part of the coast of Belleisle."

Thus it is clear that the English Minister could not have been ignorant of the fact that the French had no right to fish on that coast. He had also the reports of the colonial authorities. Governor Darling, in July, 1856, strongly protested against the rumoured pretensions of the French, or any such concessions as those made, as preposterous; and the 14th November the Ministry renewed their solemn protest against concluding any arrangement with France without first submitting the particulars to the local legislature, which protest was strongly supported by the Governor.

In examining the history of these fisheries, we find that both in a commercial and national point of view they have long been considered of very great importance. Their value commercially may be estimated from the following facts. In 1517 the first English ship visited the coast of Newfoundland, and found the French, Spanish, and Portuguese engaged in the traffic. In 1615 England had 200 ships there, while the French, Biscayans, and Portuguese had 400. Many of these ships carried 20 guns, 18 boats, and from 90 to 100 men. In the early part of last century the inhabitants of New England had about 1,200 tons of shipping employed in the whale fishery; and with their vessels engaged in the cod fishery they caught upwards of 23,000 quintals of fish, valued at 12s. per quintal, which they exported to Spain and the Mediterranean, and remitted the proceeds in payment for English manufactures. In 1745 the annual value of the North American fisheries was stated to be 982,000*l*. In 1787 the number of British vessels engaged was 402, employing 16,856 men, while, besides large quantities of fish, there were nearly 2,400 tons of oil exported. In 1814 the exports of fish and oil amounted to nearly 3,000,000*l*.

The advantage to this country nationally may be summed up in the words of De Witt: "That the English navy became formidable by the discovery of the inexpressibly rich fishing ground of Newfoundland."

Is it possible that the English Minister could be ignorant of these advantages? If so, surely the eagerness of the French to

obtain a share in those benefits might have awakened suspicion. Was not the English Minister aware that "the Ministers of France considered the value of those fisheries, not so much in a commercial view, but as essential in providing their navy with that physical strength which would enable them to cope with other nations; that it was a maxim with the French Government that their American fisheries were of more national value in regard to navigation and power than the gold mines of Mexico would have been." Could he be ignorant of the fact that the French Government encouraged this traffic by liberal bounties, and that of late years these bounties had been considerably increased?

By the report submitted in 1851 by M. Dumas, Minister of Agriculture and Commerce, and M. Romain Desfosses, Minister of Marine and Colonies, we find that the bounties paid by France from 1841 to 1850, for the cod fishery alone, amounted to an annual average of 3,900,000 francs, which, the average number of men employed being 11,500, was 338 francs per annum for each man. Was there no reason here why the British Minister should have paused before he increased the privileges enjoyed by the French, even if this could have been done without injury to our fellow-subjects? Is the maintenance and increase of the navy of France nothing to a British Minister? If we could suppose him unable to appreciate these considerations, he had before him the report of a committee of the National Assembly upon a projected law to regulate the bounties, recommending an increase for the purpose of "stimulating the drooping energies of the fishermen, and ensuring a competent supply of able seamen for French ships of war." We copy the following extract from that report:—

"Your Commission has not thought that the encouragement granted to the fisheries can be regarded as an exclusive favour or protection to one form of industry. Unquestionably the industry exerted in the fisheries, and the commercial activity arising from it, becomes a very considerable element of employment to a numerous class; but this consideration appears to us entirely secondary, and insufficient to justify the favour of special legislation. We conceive that such industrial employments as can prosper only at the expense of the public treasury should not exist; and that the intervention of the state, in the form of aids and bounties, can be justified only by considerations of a general and public interest. It is not, therefore, a commercial law we propose, but rather a maritime law, a law conceived for the advancement of the naval power of this country; for it is in this point of view only that, in our opinion, the encouragement granted to the fisheries ought to be maintained. *It is on our fisheries that our most serious hopes of maritime enlistment repose. The fisheries give employment to a great number of men, whom a laborious navigation, under climates of extreme rigour, speedily forms to the profession of the sea. No other school can compare with this in preparing them so well, and in numbers so important, for the service of the navy.*"

The law thus recommended came into operation Jan. 1, 1852, and by its provisions each man employed in the cod fishery receives 50 francs yearly, besides a large bounty on the exportation

of fish of French catch. Thus stimulated, it is no wonder that French fishermen should seek to extend the limits within which they were bound by treaty. But was it for the British Minister to grant this, when their purposes and objects were so undisguisedly laid before him, and this at the expense of British subjects and without consulting them as to the effect such change would have on their interests, and whether it was desirable?

Mr. Labouchere, in his despatch to the Government of Newfoundland, accompanying the Treaty, says, "I could have wished that her Majesty's Government had had the assistance, as was at one time expected, of one of your principal advisers, in conducting this negotiation; but I believe that the views of the *Government and people* of Newfoundland have been so fully laid before this department by the despatches and accompanying documents of yourself and predecessors that nothing was wanting to complete the necessary information on this head." The Minister in this statement corroborates the quotation we have made from the speech of the Attorney-General, who adds that "*the points they had objected to were the very points ceded by the Treaty.*" If an adviser from the Colonies was expected, why was not the making of the Treaty deferred until his arrival? Mr Labouchere supplies the answer: "The presence of a French gentleman specially entrusted by the French Government with the conduct of the business rendered it desirable to arrive at an understanding without delay." Thus, the claims of France being objected to in Newfoundland, a French agent is sent to London, and he, with the French ambassador, meets the British Minister, who, despite all warnings against such a course, makes a treaty giving the French rights to which they had no claim, to the injury of those whose allegiance to the British Crown guaranteed them protection.

The 20th Article of the Treaty would appear to give to the Newfoundland House of Assembly the power to adopt or reject this Treaty, which view Mr. Labouchere confirms in a letter to the Sheffield Committee, dated April 16th, 1857, in which it is stated that, "as this convention was only to come into operation when the requisite laws had passed the provincial legislature and the Imperial Parliament, the refusal of the former body to entertain the subject has necessarily rendered it inoperative and of no effect." Five days before the date of that letter the Emperor of the French promulgated the treaty in a decree in the *Moniteur*, and recent intelligence shows that the French fishermen are about to use the powers granted them, thus trespassing on the rights of the colonists, and trampling on their constitution, acts to which the English Minister is a party, and which not only tend to spread disaffection, but to break the peace between the two countries.

This treaty is also an infringement of the rights of America, as Art. I of the treaty of 1854 states:—

"The inhabitants of the United States shall have, in common with the subjects of her Britannic Majesty, liberty to take fish of every kind, except shell-fish, on the sea coasts, and in the bays, harbours, and creeks, of Canada, Nova Scotia, New Brunswick, Prince Edward Island, and the several islands adjacent, without being restricted to any distance from the shore."

Art. 6 extends this right to Newfoundland. The rights thus given to America are, by Art. 1 of the treaty of 1857, interfered with, and portions of the coast to which they had been admitted given exclusively to France.

Upon the effect of this treaty we have evidence of the most conclusive character in the speeches made in the House of Assembly, as will be seen by the following extracts:—

"Any further concessions will be not only detrimental, but destructive, to the best interests of Newfoundland and subversive of the rights of neighbouring colonies, which are interested in a large degree in these concessions."—*The Attorney-General.*

"These North American colonies are as little disposed to tolerate parental injustice as were the old colonies in 1783, and he felt assured that his opinion would be confirmed by a loud voice from British North America, which would wake up the British Minister to a sense of the traitorous folly of the convention he had agreed to."—*The Speaker.*

"The Americans had rights in the places which the French were to be admitted to, and the presence of the French would be as injurious to them as to us, for their enormous bounties gave them like advantage over both. They were not likely to allow their rights to be compromised in this manner, and no doubt they would make an effective remonstrance."—*The Provincial Secretary.*

"Would the United States look with indifference on this act of the British Government? He thought not; they had rights on the coast of this colony, as well as on the coast of Labrador, in common with ourselves, which they had purchased by the equivalent of taking off 20 per cent. which had hitherto been imposed as duty upon the products of this country going into their markets, as a protection to their own fishermen. Their interests would be damaged equally with our own, and he thought it was their duty to protest against this infamous measure; they should not let it go at all events without a strong protest."—*Mr. Talbot.*

"What would Lord Nelson say if he knew that it was proposed to cede to the hereditary rival of England the fisheries of Newfoundland, which had nursed the boldest and bravest seamen who ever manned the English navy? What would he say if he knew that the plenipotentiary of England had been conspiring with Louis Napoleon for the surrender of that nursery, so valued by the statesmen of another age, who looked to it as a means whereby the domination of the ocean was secured to Britain."—*The Provincial Secretary.*

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